

TENNESSEE STATE BOARD OF EQUALIZATION
ASSESSMENT APPEALS COMMISSION

Appeal of:	KNOXVILLE BOTANICAL GARDENS & ARBORETUM)	
	Dist. 2, Map 82NH, Parcels 26-29)	
	Dist. 2, Map 82NJ, Parcels 3-8)	Knox
	Dist. 1, Map 82NJ, Parcel 9.01)	County
	Claim of exemption)	

FINAL DECISION AND ORDER

Statement of the case

This is an appeal by the property owner from the initial decision and order of the administrative judge who recommended the property tax exemption for the subject property be denied because the property was not yet in use for an exempt purpose. The appeal was heard in Knoxville on March 22, 2006, before Commission members Stokes (presiding), Brooks, Gilliam, and Ledbetter.¹ The property owner was represented by its attorney, Mr. Greg Erickson, and the assessor was represented by Deputy Knox Co. Law Director Susan Crabtree.

Findings of fact and conclusions of law

Knoxville Botanical Gardens & Arboretum ("KBGA") is a nonprofit organization dedicated to owning and operating a public botanical garden and arboretum, a use which the administrative judge accepted as charitable within the meaning of the charitable use exemption statute, Tenn. Code Ann. §67-5-212. The judge concurred with the initial staff determination, however, that the subject property was not yet in use for these purposes as of the date of the hearing before the judge (June 16, 2004). Before the Commission, KBGA Director Ellen Adcock asserted that by January 1, 2005, all portions of the property were accessible to the public, paid and volunteer staff was in place, and visits by public groups and individuals had increased substantially. An apartment above a garage on the grounds was being prepared for a caretaker who provided security. Knox County officials present, including the assessor's deputy for exemption matters, Broadus Hubbs, did not dispute these assertions and testified in favor of the exemption.

Based on the undisputed testimony the Commission finds the property was in use for an exempt purpose as of January 1, 2005, with the exception of the

¹ Mr. Gilliam sat for an unavailable member as an alternate designated pursuant to Tenn. Code Ann. §4-5-302.

rented areas in the former residence now used for KGBA offices and meetings. Those rented portions of the property will remain nonexempt until they are no longer occupied as living quarters and have begun to be used for exempt purposes.

ORDER

By reason of the foregoing it is ORDERED, that the initial decision and order of the administrative judge is modified to grant exemption to the property consistent with the above findings, effective January 1, 2005. This order is subject to:

1. Reconsideration by the Commission, in the Commission's discretion.

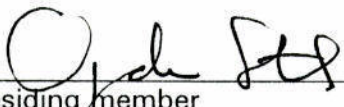
Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.

2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.

3. Review by the Chancery Court of Davidson County or other venue as provided by law. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

Requests for stay of effectiveness will not be accepted.

DATED: Aug. 17, 2006



Presiding member

ATTEST:



Executive Secretary

cc: Mr. Greg Erickson, Esq.
Ms. Susan Crabtree, Knox Co. Law Dept.
Mr. John Whitehead, Assessor